Calendar No. 577

86TH CONGRESS
1st Session

SENATE

REPORT
No. 579

ALASKA OIL LEASING

JULY 24, 1959.—Ordered to be printed

Mr. GRUENING, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1855]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1855) to amend the Mineral Leasing Act of 1920 in order to increase certain acreage limitations with respect to the State of Alaska, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

Committee action in favorably reporting S. 1855 was without dissenting vote.

PURPOSE OF THE BILL

The purpose of S. 1855 is to promote the development of the oil and gas resources of Alaska by liberalizing the present leasing restrictions applicable to the State under the Mineral Leasing Act of 1920, as amended (31 Stat. 437; 30 U.S.C. 181 et sequenti). Under section 27 of this act (30 U.S.C. 184), no person, association, or corporation may hold oil and gas leases in Alaska in excess of 100,000 acres in the aggregate, and options on more than 200,000 acres.

The proposed legislation, as amended by the committee, would increase the maximum Federal acreage that might be held in Alaska under both lease and option to 600,000 acres. Thus, it would in effect wipe out the present distinction between leases and options with respect to oil and gas operations on Federal lands in the new State.

The State Legislature of Alaska adopted a resolution requesting enactment of the legislation, and it has the endorsement of the present elective Governor as well as that of oil and gas operators in the State, and other business and community leaders.

NEED FOR LEGISLATION

Alaska, as is well known, is of vast size, comprising approximately 365 million acres of land area. Thus, it is equal in its physical proportions to some four Californias. Of this tremendous area, some 120 million acres are regarded by oil geologists and technical experts as potential oil and gas lands—as feasible for exploration.

Because of the lack of transportation facilities, great distances, and restrictive climatic conditions prevailing in much of the region, oil exploration and development costs in Alaska are extremely high. Spokesmen for operators there placed the cost at three times the average of that prevailing in the other public lands States in testimony before the committee.

Thus, initial investment is prohibitive unless such investment can be reasonably, or at least potentially, protected by fairly sizeable acreage. At present, 46,500,000 acres of Federal lands in the State have been covered by leases or lease applications, and many of the more enterprising operators have reached their acreage maximum, under present law, without being able to explore in more than one or two of the potential basins.

Unless this legislation is enacted, further pioneering work by these more active companies and individuals must come to a halt.

The committee heard convincing evidence that these and other facts arising out of the present inadequate acreage limitation are seriously retarding the search for and development of Alaska's oil potential, to the grave detriment of both the economy of the State and our security in the nearest-Russia area under the American flag.

THE LIMITATION

The committee is convinced the 600,000 acreage limitation now proposed in S. 1855, as amended, is not excessive when it is realized that Alaska is several times as large in area as any of the other public lands States and since the new State has virtually no acquired lands available for mineral leasing as is the case in the other States. For example, Alaska is more than five times as large as Wyoming, but in Wyoming any one individual, association, or corporation may control a total of 246,080 acres of leases and options under the Mineral Leasing Act and a like amount under the Acquired Lands Act (61 Stat. 913; 30 U.S.C. 351).

This makes a total holding of 492,160 acres of Federal lands that may be held or controlled. The same limitations apply to all other public lands States. Yet in Alaska, which has an area many times that of any of the other public lands States, the total amount that can be so held is but 300,000 acres.

Illuminating and uncontradicted testimony on this point was presented by the senior Senator from Alaska who in his testimony before the committee observed that:

> * * * an acre of federally owned land in Alaska has much less chance of development than an acre of federally owned land anywhere else in the United States * * *

because Alaska contains approximately 60 percent of all the public land open for mineral leasing, and about twice as much as is available in eight Western States and yet leaseholders in the new State are

restricted to a total holding in public lands that is only 54,020 acres more than is permitted in the smaller States and some 192,000 acres less than the permissible total of public and acquired lands in any other State.

Attention is invited to a map published in the hearings on S. 1855. It shows a graphic comparison between the size of Wyoming and the area of Alaska and on it are two small dots—one equaling 300,000 acres (the present lease-option limitation) and one showing 1 million acres (the limitation as originally proposed in S. 1855).

Witnesses at the hearing testified that the leasing boom which started approximately 2 years ago, after the strike in the Kenai, has come to a virtual halt. They made it clear that while operators are diligently testing and exploring these lands presently open to them, the relatively minor discoveries to date—coupled with costs triple those in the other 48 States—mark all of Alaska as a rank wildcat area. Obviously, an increased incentive such as the opportunity to investigate many more acres of land is needed if exploratory work is to be stimulated rather than stifled. As one industry witness put it:

> To warrant the tremendous expense of exploration and development in these rigorous frontier areas an operator must have more than a single shot when he sends a drilling crew north to Alaska. He must have an opportunity to drill numerous prospects or the venture cannot be expected to pay out. To find sufficient prospective oil and gas geologic structure on which to drill to warrant the undertaking, large areas must be acquired and explored.

Another important factor is that Alaska must compete with other oil frontiers for the investment capital which American-owned companies are willing to spend abroad. Canada, South America, and other relatively new areas which are bidding for petroleum development by American firms are offering land concessions many times the 600,000 acres proposed in S. 1855.

BENEFITS TO ALASKA

In addition to the long-range benefits which would accrue to the new State through the development of a thriving petroleum industry, many immediate advantages would come with the enactment of S. 1855. Many millions of dollars in badly needed additional revenue would flow into the new State's treasury since, under existing law, Alaska receives 90 percent of both rental and production revenue from Federal oil and gas leases. This financial gain would result immediately from additional leasing activity and would expand when and as further petroleum production is realized. Thus, in this respect Alaska is on a basis of equality with the other public land States which receive an outright grant of 37½ percent of revenues from oil and gas operations within their borders and benefit equally from the 52½ percent of such revenues that is paid into the reclamation fund.

Among other immediate benefits are the roads which the petroleum industry will construct to areas now inaccessible and the attraction to Alaska of service industries resulting in turn in the introduction of new population and new money.

The need for this additional revenue, which can be realized at no cost to the Federal Treasury, was given great weight in the testimony of witnesses speaking for the Governor of Alaska and for other State officials. Their vigorous support of the legislation also called attention to these other potential benefits to Alaska.

COST TO FEDERAL GOVERNMENT

No appropriation of Federal money is proposed in S. 1855. The Federal Treasury would in fact benefit to the extent of its share of all revenues from the expansion of Alaskan oil and gas development that will follow the more realistic leasing conditions, and from the general economic progress that the committee believes the proposed law will stimulate in Alaska.

NATIONAL DEFENSE

The committee takes cognizance of the point that development of a dependable source of petroleum and petroleum products near at hand to our northern defense lines, literally within sight of Communist Russia, would be significant contribution to the Nation's military defense capabilities. The committee received convincing testimony that such development will be stimulated by the enactment of S. 1855.

THE BROOKS RANGE PARTITION

The committee, after full consideration, finds that Department's recommendation for separate limitations of 300,000 acres north and another 300,000 south of the Brooks Range is unrealistic and unwarranted.

First, it is based on the inconsistent theory that adverse climatic conditions and inaccessibility there require an added incentive to stimulate exploration whereas in fact there are many areas in the interior of Alaska which have equally adverse climatic conditions and which at present are virtually as inaccessible as the coast of northern Alaska, where the ports are open only about 2 months per year. The committee sees no justification for the Department's proposal to establish an additional allowable acreage for one "hardship" area while denying it to others.

Second, in practical application, the Department's plan would "fence in" oil and gas exploration and development to two or three of the nine or so sedimentary basins which may be attractive to explorers. For the most part, many areas lying between the Arctic Circle on the north and the Kenai and Alaska Peninsulas on the south would be denied the expansion of exploration which appears necessary for the ultimate development of the State's oil potential.

If private enterprise is to be permitted further exploratory space in Alaska it seems logical that it should be given every latitude and freedom with respect to location, especially when considering future marketing problems. In the meantime, there are ample indications that any oil prospects north of the Brooks Range will not remain untested when the right combination of circumstances exists.

UNIT PLANS AND DEVELOPMENT CONTRACTS

Department witnesses made strong representations to the effect that the use of unit plans and development contracts, both permitting operators to deduct sizable holdings from their acreage chargeability, provide sufficient relief to the oil prospector who is anxious to investigate additional acreage. This was countered by the testimony of industry experts long familiar with both operations who contended persuasively that while such methods are beneficial, they provide only a partial answer to the problem.

Unit plans, it was shown, are approved by the Department only when they embrace a single geologic structure. Thus all exploratory work must be done on lands already held under lease or option by the proposed partners and therefore chargeable until the unit plan is approved. This restricts the operator's freedom to look at new lands; he is forced to work up acceptable unit plans before he can acquire further acreage.

Development contracts, it was brought out, require an operator to commit his capital to be expended within the contract area over a period of 3 or 4 years before he has had ample opportunity for geological or geophysical investigation of the property.

These facts give to the Secretary of the Interior, rather than the operator on the scene, the decision as to how much money shall be spent and when. And, since the Secretary requires those seeking development contracts to point out in advance the areas where they desire to acquire leases from other parties, the prices, bonuses, and overriding royalties they must pay for those leases in these committed areas inevitably skyrocket.

EXECUTIVE AGENCY REPORTS

The report of the Department of the Interior on S. 1855 as introduced, containing the million-acre limitation, and the concurring report of the Bureau of the Budget, are set forth below. As stated, the committee has amended the bill to cut the maximum acreage proposal to 600,000 acres. It did not see fit to concur in the Interior Department's attempt to partition the new State by providing different leasing conditions on different sides of an economically artificial and arbitrary line.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 18, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 1855, a bill to amend the Mineral Leasing Act of 1920 in order to increase certain acreage limitations with respect to the State of Alaska.

We recommend that S. 1855 not be enacted.

Section 27 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437, 448), as amended (30 U.S.C., sec. 184), establishes limita-

tions upon the acreage which may be held under mineral lease within each State. Oil and gas leases not exceeding 46,080 acres in the aggregate and options covering not more than 200,000 acres may be held in any one State, except Alaska. The statute provides that in the "Territory of Alaska" 100,000 acres may be held under oil and gas lease by a single party, though it is treated in the same fashion as other States with respect to acreage under option. S. 1855 would bring the terminology of the statute up to date by substituting the word "State" for "Territory." Of a substantive nature would be the increase in the acreage limitation applicable to Alaska from 100,000 to 1 million acres. However, in determining acreage under the new limitation options and leases would be considered together.

That climate and terrain make oil and gas development more difficult in Alaska than elsewhere and that oil and gas exploration and development in Alaska involve great cost and difficulty have long been recognized. For this reason there have been included in the Mineral Leasing Act, from time to time, various provisions intended to place Alaska in a better competitive position with respect to other States, and one of these is the present statutory provision permitting a party to hold more land in Alaska than elsewhere. On the other hand some of these more liberal provisions have been repealed by section 10 of the act of July 3, 1958 (72 Stat. 322, 324). We recognize that oil and gas development in Alaska continues to be more costly and difficult than in other States. Nevertheless, we do not believe that a general increase of the acreage limitation as proposed by S. 1855 would be helpful or desirable.

We believe that Alaska may be appropriately divided into two areas for oil and gas purposes. The land lying between the Brooks Range and the Arctic Ocean, that is, roughly the land covered by the present Public Land Order No. 82, presents a different problem from the rest of Alaska. There is little development in it at the present time and indeed there are governmental restrictions preventing development in most of this area now. However, that area appears to give promise for future oil and gas development albeit at even greater expense than in the southern portion of Alaska. Because of the extreme weather conditions and the difficulty of access, the special inducement for its development afforded by a separate acreage limitation appears to be justified. Accordingly, we recommend that the area north of the Brooks Range be treated separately from the rest of Alaska as far as acreage limitations are concerned, and that acreage limitations be established for that area alone similar to those now imposed on the whole of Alaska.

South of the Brooks Range, and particularly if interested parties holding land under oil and gas lease do not feel compelled to reserve a portion of their permissible acreage for new exploration north of the Brooks Range, we see no need for any alteration in the present law. Under section 17(b) of the Mineral Leasing Act of February 1920, as amended (30 U.S.C., sec. 226e), the Secretary of the Interior is authorized to approve cooperative or unit plans of development or operation and operating, drilling, and development contracts. Land held under such a plan or contract is excluded in the computation of

allowable acreage under section 27 of the act. Section 17(b) states that such plans may be entered into "for the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area," and experience has shown that such plans and contracts which contain specific development requirements tend toward greater development than does the mere holding of acreage under lease. To permit a party to hold more than 100,000 acres under lease and 200,000 acres under option with no specific requirements for development would tend, we believe, to weaken the present motivation toward entering into such plans and contracts. This would be unfortunate, and, as far as we know, there would not be compensating advantages. If other parties bring to the attention of the committee and the Congress justification for the enactment of such a bill as S. 1855, we would be pleased to review our findings. However, at the present time we know of no reason for such a change in existing law as that proposed by this bill.

Since we are informed that there is a particular urgency for the submission of the views of the Department, this report has not been cleared through the Bureau of the Budget and, therefore, no commitment can be made concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

ELMER F. BENNETT,
Acting Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 1, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to S. 1855, a bill to amend the Mineral Leasing Act of 1920 in order to increase certain acreage limitations with respect to the State of Alaska.

The report which the Secretary of the Interior is presenting on this bill recommends against enactment for the reasons set forth therein. This Bureau concurs in those views.

Accordingly, it is recommended that S. 1855 not be enacted.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1855, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

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Section 27 of the Mineral Leasing Act

(41 Stat. 437, 448; 30 U.S.C.A. 184)

Sec. 27. No person, association, or corporation, except as herein provided, shall take or hold coal leases or permits during the life of such lease in any one State exceeding an aggregate of ten thousand two hundred and forty acres: *Provided*, That a person, association or corporation may apply for coal leases or permits for acreage in addition to said ten thousand two hundred and forty acres, which application or applications shall be in multiples of forty acres, not exceeding a total of five thousand one hundred twenty additional acres in such State, and shall contain a statement that the granting of a lease for such additional lands is necessary for the person, association, or corporation to carry on business economically and is in the public interest. On the filing of said application, the coal deposits in such lands covered thereby shall be temporarily set aside and withdrawn from all forms of disposal under this Act. The Secretary of the Interior shall, after posting notice of the pending application in the local land office, conduct public hearings on said application or applications for additional acreage. After such public hearings, to such extent as he finds to be in the public interest and necessary for the applicant in order to carry on business economically the Secretary of the Interior may, under such regulations as he may prescribe, permit such person, association, or corporation to take or hold coal leases or permits for an additional aggregate acreage of not more than five thousand one hundred and twenty acres in such State. The Secretary may, in his own discretion or whenever sufficient public interest is manifested, reevaluate the lessee's or permittee's need for all or any part of the additional acreage. The Secretary may cancel the lease or leases and permit or permits covering all or any part of the additional acreage, if he finds that such cancellation is in the public interest or that the coal deposits in the additional acreage are no longer necessary for the lessee or permittee to carry on business economically or if the lessee or permittee has divested himself of all or any part of the original ten thousand two hundred and forty acres or no longer has facilities which in the Secretary's opinion enable him to exploit the deposits under lease or permit. No assignment, transfer, or sale of any part of the additional acreage may be made without the approval of the Secretary. No person, association, or corporation, except as herein provided, shall take or hold sodium leases or permits during the life of such lease in any one State, exceeding in the aggregate acreage five thousand one hundred and twenty acres: *Provided*, That the Secretary of the Interior may, in his discretion where it is necessary in order to secure the economic mining of sodium compounds leasable under this Act, permit a person, association, or corporation to take or hold sodium leases or permits for up to fifteen thousand three hundred and sixty acres in any one State. No person, association, or corporation, except as herein provided, shall take or hold at one time oil or gas leases exceeding in the aggregate forty-six thousand and eighty acres granted hereunder in any one State, [except that in the Territory of Alaska no person, association, or corporation, except as herein provided, shall take or hold at one time oil or gas leases exceeding in the aggregate one

hundred thousand acres granted hereunder;] *except that in the State of Alaska no person, association, or corporation, except as herein provided, shall take or hold at one time oil or gas leases, or options to purchase or otherwise acquire oil or gas leases, exceeding in the aggregate for both such leases and options, six hundred thousand acres;* and no person, association, or corporation shall take or hold at one time phosphate leases exceeding in the aggregate ten thousand two hundred and forty acres in the United States. No person, association, or corporation shall take or hold at one time any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof, which, together with the area embraced in any direct holding of a lease or leases, permit or permits, under this Act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof for any kind of minerals hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee or permittee under this Act. For the purpose of said sections, no contract for development and operation of any lands leased hereunder, whether or not coupled with an interest in such lease, nor any lease or leases owned in common by two or more persons, shall be deemed to create a separate association under this section between or among such contracting parties, or the persons owning such lease or leases in common, but the proportionate interest of each such person shall be charged against the total acreage permitted to be held by such person under this Act: *Provided*, That the total acreage so held in common by two or more persons shall not exceed, in the aggregate, an amount equivalent to the maximum number of acres of the respective kind of minerals allowed to any one lessee or permittee under this Act. [The interest of an optionee under a nonrenewable option to purchase or otherwise acquire one or more oil or gas leases (whether then or thereafter issued), or any interest therein, shall not, prior to the exercise of such option, be a taking or holding or control under the acreage limitations provisions of this Act. No such option shall be entered into for a period of more than three years, without the prior approval of the Secretary of the Interior, and no person, association, or corporation shall hold at one time such options of more than two hundred thousand acres in any one State.] *The interest of an optionee under a renewable option to purchase or otherwise acquire one or more oil or gas leases (whether then or thereafter issued), or any interest therein, shall not, prior to the exercise of such option, be a taking or holding or control under the acreage limitations of this Act, except as is provided in this section in the case of the State of Alaska. No such option shall be entered into for a period of more than three years, without the prior approval of the Secretary of the Interior, and no person, association, or corporation shall hold at one time such options of more than two hundred thousand acres in any one State except as is provided in this section in the case of the State of Alaska.* Each holder of any such option shall file with the Secretary within ninety days after the 30th day of June and the 31st day of December in each year a statement under oath showing as of said dates (1) name of optionor and serial number of

lease or application for lease, (2) date and expiration date of each option, (3) number of acres covered by each option, and (4) aggregate number of options held in each State and total acreage subject to said options in each State. If any interest in any lease is owned or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of this Act, the lease may be canceled, or the interest so owned may be forfeited, or the person so owning or controlling the interest may be compelled to dispose of the interest, in any appropriate proceeding instituted by the Attorney General. Such a proceeding shall be instituted in the United States district court for the district in which the leased property or some part thereof is located or in which the lease owner may be found except that any ownership or interest forbidden in this Act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition. Nothing herein contained shall be construed to limit sections 18, 18a, 19, and 22 or to prevent any number of lessees under the provisions of this Act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under said sections, or the transportation of coal or to increase the acreage which may be acquired or held under section 17 of this Act: *Provided*, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same. Except as in this Act provided, if any of the lands or deposits leased under the provisions of this act shall be subleased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in anywise controlled by any combination in the form of an unlawful trust, with the consent of the lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise, to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this Act, the lease thereof shall be forfeited by appropriate court proceedings. As amended Aug. 8, 1946, c. 916, § 6, 60 Stat. 954; June 1, 1948, c. 365, 62 Stat. 285; June 3, 1948, c. 379, § 6, 62 Stat. 291; Aug. 2, 1954, c. 650, 68 Stat. 648; Aug. 13, 1957, Pub. L. 85–122, 71 Stat. 341; Aug. 21, 1958, Pub. L. 85–698, 72 Stat. 688.

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